

APPROVED
Centerville Township Zoning Board of Appeals
Public Hearing
December 7, 2022
Centerville Township Hall

Call to Order: Dave Borton, Chair, called the meeting to order at 6:00 pm with the Pledge of Allegiance.

Attendance: Jeff Smith, Deb Kuhn, and Dave Borton were present. Deb Kuhn was present as an alternate for Jamie Damm, who voted on the matter as a member of the Planning Commission. Chris Bzdok and Lauren Teichner, Township Attorneys, and Dana Boomer, Recording Secretary, were also present.

Agenda: Borton read the agenda for the members of the public, and gave a brief summary of how the meeting would proceed. The meeting procedures will be discussed in more detail after the agenda is approved. Smith stated that the ZBA cannot consider new evidence, but that comments from the public are important. He asked Bzdok to summarize the line between new evidence and comment. Bzdok stated that the public should express their opinions, but new factual material may not be introduced, as this is an appeal of the Planning Commission decision, based on the information that the PC had at the time of the decision. The members considered the agenda. **Smith moved to approve as presented, Kuhn seconded. All in favor, motion carried.**

Declaration of Conflict of Interest – No members declared a conflict of interest.

Leelanau Pines Appeal of Planning Commission Site Plan Review Decision

a. Consideration of Hearing Procedures

Chris Bzdok had previously distributed a draft hearing procedures document (see attached). Bzdok summarized that document. For tonight, it is proposed to hear the presentation by the appellant, hold the public hearing, hear a response from the appellant, and begin discussion on the application. A second meeting will be held on December 20 to continue the discussion and finalize the decision of the ZBA. The board briefly discussed the draft hearing procedures with Bzdok. The board must, at the end of the process, have a detailed findings of fact and a written final decision. Bzdok and Teichner will begin drafting those documents based on the discussion tonight, for consideration, amendment, and additions at the December 20 meeting. Although new evidence is not allowed, additional comments may be submitted in writing from the appellant prior to December 13 for consideration at the December 20 meeting.

Smith would like to go through the standards in numerical order. Borton stated that this is how he plans to approach that section of the discussion, given that the staff report presented the information in that order. The draft hearing procedures document was provided to the appellant and public prior to the meeting, as was the full record from both the Planning Commission and ZBA. **Kuhn moved to approve the procedures as written, Smith seconded. All in favor, motion carried.**

b. Presentation by Appellant

Northgate/Leelanau Pines has submitted an application requesting that the ZBA review and overturn the Planning Commission decision regarding their Site Plan Review/Special Use Permit. Along with their application, they submitted substantial documentation supporting their request, which is maintained on file. Jason Vander Kodde from Northgate/Leelanau Pines summarized their application which was presented to the Planning Commission. Vander Kodde read the seventeen standards for approval, and summarized the Northgate/Leelanau Pines arguments for why their proposal meets those standards.

Brion Doyle, attorney for Northgate/Leelanau Pines, summarized the application in front of the ZBA tonight and the legal arguments for overturning the PC decision. Doyle covered the Northgate/Leelanau Pines arguments against specific aspects of the findings of fact and final decision as approved by the Planning Commission, focusing on what Northgate/Leelanau Pines considers to be a lack of rationale regarding the Planning Commission conclusions on stormwater management, nuisances, and barriers between Leelanau Pines and neighboring properties. Doyle stated that in his opinion there is no support on record for a number of the findings and conclusions made by the Planning Commission. Northgate/Leelanau Pines also objects to basing findings in the standards for approval on sections of the the Master Plan, as the Master Plan is not part of the Zoning Ordinance.

Northgate/Leelanau Pines requests that the ZBA overturn the decision of the Planning Commission and approve the Site Plan Review/Special Use Permit for Leelanau Pines. Northgate/Leelanau Pines would also request that the ZBA speak to Section 8.4 of the Master Plan, and whether they believe that this section disallows all expansion of campgrounds in the Commercial/Resort District. Northgate/Leelanau Pines also does not believe they were treated fairly by the Planning Commission. They argue that not being allowed conditional approval disallowed them from being allowed to apply for other state permits, and they also argue unfair treatment in not allowing Northgate/Leelanau Pines to correct untrue statements that were made during the final meeting. It was also unfair and capricious for a 15-page motion to be prepared prior to the final PC meeting, and approved without substantial editing after additional points were raised during the meeting, and approved with what Northgate/Leelanau Pines considers to be incorrect information. Northgate/Leelanau Pines requests a fair hearing by the ZBA tonight.

Doyle reached the 20 min time limit before his presentation was completed, but asked to take some time from his reply time to finish his prepared remarks. This request was granted by the ZBA. He ended up using 3 minutes of his 10 minute reply time to complete his initial presentation.

Kuhn asked how many of the permits received discussed tonight were received after the PC decision? Vander Kodde stated that the final issuance of approvals from the Fire Department and Road Commission occurred after the final PC meeting, while the application for those permits was done prior to the PC decision. Borton asked what date the letter was received from the Fire Chief. The second letter from the Fire Chief was received on November 28, while an initial letter was received prior to the PC decision. Vander Kodde stated that the November letter is proving that if conditional approval was granted, the plans as presented to the PC would have been approved by the permit granting agencies – the letter is not based on new evidence.

Kuhn requested additional information regarding the pedestrian circulation system – she wanted to know how pedestrian walk safely from the pedestrian areas to the beach. Vander Kodde replied that when walking from camp sites to activity areas, campers generally walk on the roadways. The Zoning Ordinance requires pedestrian circulation systems to be separated from walkways; it does not require that pedestrians be kept off of roads. The pedestrian circulation systems in the activity areas are separated from the roadways. Borton asked Bzdok to speak on this – Bzdok stated that this is something for the ZBA to consider and judge, as to whether the site plans for pedestrians are appropriate for safety. Kuhn requested additional information on tree removal. Vander Kodde showed drawings regarding what trees would be retained, and covered areas where trees will be removed. The existing cedar swamp will be preserved, while some areas of planted pine plantation will be removed for additional campsites, maintenance and storage areas, and parking.

Smith interpreted the PC's decision to mean that they turned down the plan based on uncertainties. He feels that the applicant is arguing that the PC should have already had additional information that they didn't have. The PC asked for additional time to cover the uncertainties they had. He asked the applicant whether they expected the PC to request specific technical details, and asked the applicant why they did not agree to the extension of the 90 day timeline. Doyle responded that several standards are based on approvals from other agencies, where applicants can be granted approval conditioned upon receiving approval from those other agencies. There are other standards based on information that the PC could have requested from the applicant or neighbors, such as vegetative screening, in areas where the PC could have developed a record and didn't. There are areas of the decision where the PC identified fears but didn't establish a record substantiating their opinions. Vander Kodde added that Northgate provided answers to all questions asked by the PC prior to the October decision meeting. Part way through the October meeting, it was determined that the applicant could no longer answer questions or clarify information, and so this resulted in information not being given that could have assisted the PC. In addition, even answers provided prior to the cut off at the October meeting did not result in the 15-page motion being changed. The applicant agreed to an additional two weeks of discussion time. Kuhn asked Bzdok for his opinion on this timeline. Bzdok provided his opinion in the staff report.

c. Public Hearing

The public hearing was opened at 7:09 p.m.

Susan Wheadon – She lives in Centerville Township. Given the worldwide water crisis and climate crisis, protecting the environment is paramount. Lake Leelanau is already struggling. She is angered by a developer that proceeds despite a community that does not want an expansion, and angered by a government system that protects a company over citizens who are fighting against expansion. The citizens deserve to be respected, the lake deserves to be respected, and the trees deserve to be respected. The developer should respect that the citizens do not want the expansion.

Chuck Haag – He is about a half mile south of the park. Before the expansion of the park is considered, he would prefer to see the park fixed up and shown to be good neighbors. He has looked at the website for other Jellystone Parks in Michigan, and there is a lengthy list of complaints. Many of those complaints focused on the parks being good places until bought by Northgate, and a lack of staff. He would like to see the existing park fixed up before an expansion is approved.

Don Stocksill – He lives on the north side of the lake. He is wondering if, if all 17 points are met, is the approval required. Or, is there the ability to deny the permit even if the points are met.

There was a brief discussion regarding whether legal counsel could answer this. Borton asked for Bzdok to reply to this question. Doyle objected to responding to public comment. Before responding, Bzdok said he would answer if the ZBA Chairman was requesting information from him; then Bzdok stated he took the ZBA's reaction to this comment to equal such a request. Bzdok replied that the request is for a special use. The review standards that the board uses require some discretion and judgment. If the applicant meets all standards, the approval should be granted. However, the decision that the standards are met requires judgement and opinion on the part of the board. Borton asked whether public comment is part of the record that should be considered. Bzdok said yes.

Donald Baty – They've owned their property since 2003 in Centerville Township. Something that continues to be ignored, throughout several letters he has written, is the sentence of the Zoning Ordinance that says that the application must comply to all applicable standards of the Ordinance. The welfare of the community as a whole must be considered, not just the 17 factors. The PC made several points in their motion regarding the welfare of the community as a whole, and that is where the discretion of the board comes into play. With regard to due process, he feels it's nonsense to say that there was not fair process. The PC repeatedly requested more time to consider this application. There would have been no prejudice for extending the process another month, to include the November regular meeting for a final decision and to allow time for another special meeting in between. It is the board's job to look at the record, but the due process argument is a red herring.

Vander Kodde stated that the speaker was at the end of his time. Bzdok stated he is keeping time, and would like to let people finish their thought at the end of their 3 minutes. Borton stated that it was inappropriate for the applicant to interrupt public comment. Ken Reed offered to give Mr. Baty his time. It was determined that Mr. Baty could finish his comment.

Baty continued that there is a substantial amount of evidence on the record regarding environmental impacts of this proposal. There was substantial comment from environmental experts, dating from as early as the public hearing in August. These issues were raised in August, but there was no expert response from the applicant regarding these concerns.

Kathy Zater – She lives in Centerville Township. She has friends that live near the Timber Shores expansion, and that Township went to a public vote. Is that possible in that instance.

Borton replied that this is a matter that was submitted to the Planning Commission, a decision was made, and this is now an appeal of that decision. Bzdok stated that there are instances where a project, in order to seek a land use approval, needs a change in zoning. If the local unit of government approves those changes, then people who live in the community have the right to gather signatures and petition for a referendum to occur on the changes in zoning. That was the case with Timber Shores. In this case, there is no change in the zoning.

Kama Ross – She is a Centerville Township resident. She is not against the campground, but what is in this proposal is not in line with building a resilient, strong community that respects the natural resources of the township. This is not a project for Centerville Township. If Northgate would like to bring something back that is more in line with the Master Plan, the PC should consider it.

John Popa – He has lived in the region his entire life, and he has attended all of these meetings and read all of the documents. The PC made the right decision, with all of the information they were given. The ZBA should consider all of the information given to the PC, and the public comment. The owners have mentioned that there have been no complaints or concerns regarding the existing campground, but just because things were there before doesn't mean they don't need to be brought up to the current zoning code. The refusal of an extension was a valid reason for the PC to turn down this application. He thinks the owners should cancel the application, look at the items that were brought up, and start over with a new application that addresses all of the concerns. This property should be sold to the conservancy and made into a park.

Ann Baty – She lives on south Lake Leelanau. Given that there was no extension of the timeline that would include an additional regular meeting, the PC had to make a decision at the October regular meeting. There were many questions that were not answered by the applicants, including questions regarding the protection of Lake Leelanau, traffic control, pedestrian safety, campground occupancy, the development of the water front, and other questions. The timing was a factor, and the applicants forced the hand of the PC.

Chris Grobbel – Lake Leelanau – The ZBA is quasi-judicial. Their role is to review the decision of the PC and how they made their decision. The township is bound by the Zoning Ordinance. There are both non-discretionary and discretionary standards that must be reviewed by the PC. The PC received a lot of information immediately before meetings. The township did an excellent job on process. The conclusion may be a matter of debate, but the process was well-done and defensible. Communities sometimes have to say no. He is an environmental consultant, and government sometimes has to say no. And they say no based on their authority in the Zoning Ordinance and Master Plan. The applicant does not meet the standards set in either the Master Plan or the Zoning Ordinance. The applicant can re-apply, but does not meet the standards with the current application. It is the responsibility of the applicant to bring forward evidence, not the responsibility of the community.

Wayne Selanski – Centerville Township – He was at all the meetings. He heard from neighbors bordering the campground say that they do have complaints about smoke, light and noise in the past even with the current campground.

Glen Lacrosse – Centerville Township – One thing that hasn't been mentioned is the effect on areas outside of Centerville Township. The lake is unique with its size, shape and the mid-lake channel. The channel is sensitive, with a 5 mph, no wake restriction. Add 1400 people into the park and the traffic will look like Traverse City. He has already seen an increase in congestion. The applicant is in the recreation business. The county already has a National Park that spreads out a lot better on all the lakes and Lake Michigan, rather than putting this burden on Lake Leelanau.

Linus Laskey – He is adjacent to the park on the north. Mr. Doyle stated that there was no evidence of smoke and noise affecting neighbors. If people were on his property during a nice day, they would disagree. There is at least anecdotal evidence of noise and smoke pollution from the park coming onto neighboring properties. He has campers walking, sometimes with their dogs, trespassing on his property, even with the existing size of the campground. Does the campground have to be this size? Is there a compromise size?

The public hearing was closed at 7:40 p.m.

- d. Reply Comments by Appellant – 7 minutes

Doyle replied to public comment. Regarding Jellystone camps in Michigan, those are not owned by Northgate. There was discussion of community objection – many of those original comments were from campers. Many of the original comments were not from Centerville Township residents. In looking at public comments, it is important to see where those comments are coming from – are those coming from community members or from campers from out of state who are disgruntled by changes to the campground.

He is not aware of any areas where the PC asked for information and the applicant did not provide it. Northgate put together comprehensive answers to all questions that they were asked. Vander Kodde stated that they put together an extensive document answering questions by the PC, staff and public, as well as answers to other questions. If there were unanswered questions, they are not aware of them. They were uncomfortable speaking about occupancy rates at their campgrounds across the country. The 15-page motion denying the application was already written before the final fact-finding at the October meeting, and the applicant believes that extra time would have only been used to further delay the process.

Vander Kodde stated that they have already reduced the number of lots that they are asking for, in order to find a compromise with the PC and community. The initial application was for a substantially larger expansion. Doyle stated that regarding the noise concerns, noise rules are strictly enforced at Northgate campgrounds. These are family campgrounds, and the quiet hours are strictly enforced. Not enforcing those would reflect badly upon their business model, and make people not want to stay at their camps. Vander Kodde stated that their proposal is not regarding Lake Leelanau, it is regarding a private commercial/resort property. Northgate provided answers to all questions asked by the PC and staff.

e. Board Discussion

Bzdok and Teichner had prepared an extensive staff report detailing the information received by the Planning Commission and presented by Northgate/Leelanau Pines, as well as detailing the seventeen standards that are required to be met to approve a site plan review/special use permit. That staff report was made available to the appellant and public prior to the meeting, and will be maintained on file.

Borton read each standard and the ZBA discussed. Borton reminded the public that the job of the ZBA is to review the decision of the PC and determine whether it was come to in an appropriate manner. Smith asked Bzdok to confirm that if even one standard was not met, the application would be denied. Bzdok stated that it is the job of the ZBA to affirm or not affirm the PC's decision on each standard.

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance. – Kuhn asked Borton to summarize the PC decision on each standard – Borton did so. Borton believes the PC was correct in their decision on Standard 1. Kuhn believes that the PC could not know how the nuisance from smoke would increase with the expansion. Borton stated that there has been public comment that there is currently smoke and noise pollution on neighboring properties. The ZBA also stated that not enough data was presented to properly determine lot coverage. Smith stated that the lot coverage issue really resonated with him – he does

not believe you can ignore parking lots, pools, septage, etc. when looking at the impact of a development this size. The ZBA briefly discussed which items would be considered as part of lot coverage. Borton stated that the applicant's stated intention is to keep campers on-site, but he would tend to think that while there is likely some degree of truth there, campers also want to see the area. People are drawn to this area because of what it is – that is why people move here. Borton stated that he believes the PC was correct in their assessment and ruling on this standard.

2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas. – Borton reminded the ZBA that the applicant has stated that there has not been a full tree survey completed. The applicant has noted that there have been reforestation efforts on the property, but upon Borton's site visit, those efforts appeared to be decades old. Removing the trees from the pine plantation would decrease the property's ability to prevent smoke, light, and noise pollution from moving to surrounding properties. There was a substantial amount of public comment on this topic, which is covered in the staff report.

Smith feels that there was uncertainty on the part of the PC here, because there was only speculation regarding the questions on the impact of tree removal and pollution. Given that the PC did not have the time to rectify this uncertainty, he would support the PC decision to consider this standard not met. He said we owe it to our community to be certain on these questions. And the PC would need to be certain enough to go forward with a conditional approval. There was a lot of uncertainty. With time not being extended, there was not enough time to consider these issues. Soil removal, topographic modifications, lots of gravel being brought in, vegetation disappearing, he wonders about the effect. All of those issues were on display. Kuhn supports the PC decision, especially based on the letter from Robyn Schmidt from EGLE that cites potential environmental effects. Borton stated that the removal of mature or semi-mature trees is not immediately mitigated by replanting – sometimes it takes decades for full mitigation. He feels that the PC made the correct decision with to consider this standard not met.

Bzdok asked if there was consensus from the ZBA regarding supporting the PC decision on standards one and two. There was, and Borton will specifically ask regarding consensus on future standards.

3. Site plans shall fully conform with the published surface water drainage standards of the County Drain Commission. – Borton's interpretation is the PC was saying they did not have enough information on this standard. The notation was made in the July EGLE letter that there would be a permit needed regarding stormwater management. Kuhn feels that it is relevant that they have received Drain Commission approval based on the plans provided to the PC. Borton stated that they are not considering that tonight. Borton asked for consensus – it was the consensus that standard three was correctly judged on the part of the PC based on the information they had on October 3, 2022.

4. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring property owners. – Bzdok stated that this is phrased in older language, but that his interpretation is that a property owner should not adversely affect their neighbors through the manner in which they remove stormwater from their property. This is a quirky wording. He is not commenting on any of the facts, only on his interpretation of the standard itself. The ZBA briefly discussed; Smith

explained he interpreted the wording the same way Bzdok explained. Kuhn wonders about whether the PC had all of the information regarding the flow of stormwater to the critical Rice Creek area. Borton summarized the PC finding from the staff report. Borton recognizes that there needs to be some latitude with conditional approvals, but the goal posts were moving in this project with the continued changes in the submission. It was difficult for the PC to come up with firm numbers due to the changes, especially on such topics as to how stormwater would be dealt with. The changes affected how a conditional approval could be granted. There was a request from the Drain Commissioner for the site plans, while stating that it appeared the site had the acreage to accommodate the proposed expansion. No further communication was provided to the PC or ZBA.

Borton stated that based on his site visit, the roads are primarily dirt – he has found no information provided as to whether those dirt roads will be paved, covered with gravel, or maintained in current form. Kuhn added that some of the public comment is from people who are specialists in this area, such as the lake biologist, and those public comments were compelling to her in stating that the PC did not have the information they needed regarding this standard. Smith stated that this is one of the most important standards regarding this site, given that all of the drainage would be carrying contamination into a fragile environmental zone. More knowledge is needed due to the fragility of the environment surrounding this site. This is a high-profile issue, and more information should have been provided. He believes the long-term health of the lake is extremely important.

Borton stated that the mouth of Rice Creek and the drainage system is a very interesting spot with many environmental attributes. Smith stated that the ZBA is not in a place to write a permit for drainage, but he believes that the PC was correct in their determination due to the lack of information. The ZBA had consensus that the PC was correct in their determination on this standard.

5. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein and adjacent parcels. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants. – Borton feels that this standard covers the protection of both the occupants of the campground and the protection of adjacent parcels. The ZBA discussed whether this would apply to privacy of individual campsites within the property, versus between the campground as a whole and neighboring properties. Bzdok stated that the standard is clear that it covers privacy between the applicant property and neighboring properties, but is less clear regarding privacy between individual campsites.

Kuhn asked if the ZBA could consider the applicant assertion that there will be no generator use due to electrical hookups at each site. Borton stated that he has been to campsites where various levels of electricity are charged at different rates, and some campers choose to use generators rather than pay a separate charge for electrical service. This is especially important considering how often the power goes out in Leelanau County. Bzdok asked for clarification on the ZBA's thoughts on this standard – Borton stated that the ZBA has consensus that the PC was correct in determining this standard not met. Bzdok asked for additional reasoning. Borton feels the generator issue is secondary. He feels that the primary issue is the lack of evidence of privacy for neighboring properties, based on noise and other pollution generated by the

campground. Kuhn and Smith agreed. The ZBA had consensus that the PC was correct in their determination on this standard.

6. All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides. – Borton stated this is affected by the date on the final letter from the Cedar Area Fire & Rescue Fire Chief. Kuhn asked to discuss whether the PC should have offered to approve this item based on a condition of receiving a letter of approval from the Fire Chief, rather than denying the standard altogether. The Fire Chief is known to be thorough, and it seems reasonable that the PC could have granted a conditional approval of this standard. Smith would consider this reasonable. Borton opined that there is a time limit on new evidence, and has a great degree of empathy towards the PC on a very complex issue that continued to change. He can understand the hesitancy to act without a firm approval from the Fire Chief. Kuhn conceded to Borton's point. Smith feels this gets to the heart of what a conditional approval is. He believes there is more certainty with this issue than others, and he feels it would have been reasonable for the PC to set this standard as a conditional approval. Borton summarized that there is a mixed opinion on this point. Bzdok stated that when he provides draft findings of fact, he will give the ZBA options on language for a draft decision.

7. If there is a pedestrian circulation system, it shall be insulated as completely as reasonably possible from the vehicular circulation system. – Borton referenced his site visit and the site plans provided by Northgate, and stated that it is very difficult to separate a pedestrian circulation system from a vehicular circulation system in an area such as an RV park. He has enough questions on this item that he feels the PC was appropriate in not considering this standard met. However, a complete separation is a very tall order for a campground. Smith stated that he has mixed feelings about this standard, because a key aspect is the character of a typical Northern Michigan or local campground, with narrow roads, slow vehicle traffic and a mingling of people. He doesn't want to insist on what looks like a city road/sidewalk system that would change the cultural feel of the campground.

Kuhn stated that the current dirt roads make the campground feel natural, and she does not want to insist on conditions that make it feel less rustic. However, when the PC looked at this, they didn't find more signage continuing the 5 mph speed limit and perhaps other details. Smith reiterated that the purpose of the ZBA is to determine whether the decision of the PC is justifiable, rather than just whether they would have had a different opinion. Borton summarized that there is a lack of complete consensus based on the difficulty of the subjectivity of this standard. Bzdok reminded the ZBA that this is a two-meeting process, and there can be a variety of potential wording drafted for this topic. A definitive decision does not need to be made at this meeting.

8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant material no less than six (6) feet in height. – Borton stated that on his site visit, some trash receptacles were screened and some were not. Smith stated that the ZBA is deciding on what the plan will be, rather than what is currently in place today. Borton is not sure that the PC had complete information on this topic. Smith quoted the Leelanau Pines response on this topic at the October meeting, which stated that they would meet

this standard. The ZBA asked Bzdok to confirm that and get a variety of responses on this standard.

9. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. – Borton stated the PC determined they did not have enough detail on the lighting plan. Dark skies are important, and there are not many left. However, that doesn't mean the applicant's plans don't address the concept of dark skies. He feels that more information would have been needed from the applicant to truly determine the impact of existing and additional lighting. Kuhn feels that the applicant's argument that it is in their own best interest to protect dark skies is compelling. Smith feels this is not as difficult as, for example, the nuances of stormwater runoff and fish habitats. He feels that the applicants are taking steps to preserve dark skies. After consideration, Borton feels he may need to disagree with the PC on this standard. In place of denying this standard, there could have been a conditional approval based on dark sky protection, directing lights away from the lake, and directional lighting. There was consensus that the ZBA disagreed with the decision of the PC to consider this standard not met, and instead the ZBA determined that this standard should have had a conditional approval.

10. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the County Road Commission. – Borton feels that with the noted exception of the road split around the island at the entrance, roads are two-way, with different widths. Most existing roads will remain the same width, with minor exceptions, and new roads will be somewhat wider. Borton pointed out there was some contention on this point amongst the PC, as the PC spent a long time considering the traffic study. Kuhn agrees with the findings of the PC, based on the errors still present in the traffic study as of October 3, 2022. Smith agrees with that point. Borton feels the PC could not have made a different decision. The ZBA had consensus to affirm the PC's decision to consider this standard not met.

11. All streets shall be developed in accordance with the Centerville Township Private Road Ordinance or the Leelanau County Road Commission specifications as required. – Borton summarized the PC findings and the applicant's assertion regarding number of parking spaces per campsite, which differ. It was difficult from a site visit at this time of year to tell how many parking spaces were present. Smith feels it is important to know whether the applicant had stated that there were two spaces per campsite prior to the Oct 3 decision. It is in the Oct 3 minutes that the applicant did state 2 parking spaces per vehicle. The ZBA asked legal counsel to further review the record to see if it is possible to clarify what the PC was told on Oct 3 and prior.

12. Site plans shall fully conform to the driveway and traffic safety standards of the Michigan Department of Transportation and/or the County Road Commission. – Borton stated that the PC noted that with the continual updating of plans it was difficult to tell whether this standard was met. Kuhn agrees with the PC's denial on this topic. Smith feels that the traffic increase generated by this expansion, as shown by the traffic study conducted by Northgate, would change the character of Lakeshore Drive and is an especially telling consideration for him. A 4.6 fold increase in traffic is really large. Kuhn

does not feel that Labor Day weekend (which was considered for the traffic study) is the heaviest traffic volume of the year. Borton does not feel that there was enough evidence showing what the actual effect of additional traffic on the roadway would be, especially given the current traffic loads by commuters and agricultural equipment. Lakeshore Drive was not necessarily designed with this increase in traffic in mind. Smith stated that this goes to the concept of scale. The campground is functioning well at the existing scale, but a 4.6x increase in traffic shows that more is not always better. This is a very dramatic increase. Borton summarized that the ZBA has consensus to support the PC's determination on this standard.

13. Site plans shall fully conform to the applicable fire safety and emergency vehicle access requirements of the State Construction Code and/or local Fire Chief requirements. – Borton stated that at the time of the PC decision, they had not received an approval from the Fire Chief on the latest version of the plans. He feels the PC was correct in their decision to not approve this standard. He feels the applicant should have pushed Cedar Area Fire & Rescue to provide an updated approval prior to the Oct 3 meeting, given what an important health and safety/emergency response issue this is. Kuhn asked why a conditional approval could not have been given on this standard. Smith stated that he feels a conditional approval could have been given, based on the condition of an approval by the Fire Chief. He believes this is an easier conditional approval that other more complicated issues like habitat, storm water, or ground water flow. Borton summarized that there is a mixed opinion on this, and asked legal counsel to provide a variety of potential language for approval.

14. Site plans shall fully conform to the County Soil Erosion and Sedimentation Control Ordinance. – Borton stated the PC discussed whether this standard should be given a conditional approval. The PC acknowledged that the Soil Erosion Office had requested additional information, and Borton did not see anything in the record regarding whether additional information was provided to the Soil Erosion Office. Kuhn agrees with the PC decision, because this is such a critical issue to the protection of the environmentally sensitive area on and around the applicant property, which includes a substantial cedar swamp wetlands area. The ZBA had consensus that the PC was correct in considering this standard not met.

15. Site plans shall fully conform to the requirements of the Michigan Department of Public Health and the District Health Department. – Borton stated the PC discussed the most recent letter from the District Health Department, where the DHD expressed reservations about the project. There is no evidence of additional information being submitted to the DHD. Smith asked legal counsel whether it is considered new information if the Chair reflects on what he personally saw at the site. Bzdok stated that the site visits are designed to provide context and understanding for the paper record. Borton stated that there is also a notation in the PC motion that the application does not meet EGLE or DHD standards.

Kuhn agrees with the PC findings – this is an extremely critical aspect, and needs to be set in advance of the approval. Smith agreed with what was stated by Kuhn. This is a fragile site with a large lagoon, close to the lake. This would be a significant expansion of the number of people pumping their bodily waste into the pond. Additional information would be needed before an approval could be given on this standard, based on whether the current system could support the expansion or whether additional lagoon space and monitoring would be needed. Borton pointed out that it would be a two-fold increase in

the camping population. He would like to see some sort of stringent requirement delineated by the PC regarding the increase in sewage, given the potential for expansion of camping population.

Smith noted that as the public comment pointed out, this is basically placing an entire town in a single lakeshore property, and a town-size sewage system would be given a large amount of scrutiny. Borton summarized that the ZBA had consensus to support the PC decision on this standard. The ZBA discussed whether it was allowed within their role to recommend that the PC review language related to septic systems and sewage treatment and implement more stringent standards. It was determined that this is not appropriate for this particular context; Borton withdrew his request for such. Bzdok confirmed that these recommendations to the PC would not be added to the draft decision.

16. Site plans shall fully conform to all applicable state and federal statutes. – Borton stated that the PC noted they did not have all necessary information, and that there was a likelihood for environmental impacts from allowing the campground expansion. In addition, the PC noted that unless additional information was presented, this plan may violate state environmental law. Kuhn noted that there was substantial public comment from environmental topic experts that noted potential environmental degradation from this plan, and supports the PC in their decision on this standard. Borton specifically noted the comments from retired forester Kama Ross, quoted in the staff report, regarding tree removal and environmental effects. The ZBA had consensus that the PC was correct in their decision to consider this standard not met.

17. Site plans shall conform to all applicable requirements of local, state and federal statutes and approval shall be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted. – Borton read the pertinent section of the motion passed by the PC, determining this standard to be not met, and the applicable area of the staff report. Borton reflected on the purpose of the Zoning Ordinance and the point of zoning, as well as the purpose of the Master Plan, and the development of those two documents, originally based on a questionnaire sent out to Township residents. He considers the portions of the motion that he read particularly pertinent given their assertion that this project is in direct conflict with many of the strategies of both the township and county Master Plans. Kuhn and Smith agreed that they affirm the PC's decision in considering this standard not met.

Smith stated that scale does matter, and that the fragility of the location must be respected. He expressed that the writers of the Master Plan (and those residents who filled out the survey) were trying to express concern for creeks, wetlands, swamps, and fish habitats (as pointed out by Brian Price in his public comment) – all those things are wrapped into the idea that this campground is at a scale that is too big, and could cause damage. All those things like fragility, wetland runoff, and sediment can have an impact. He believes when considering standard #17 that it's on target to look to the Master Plan for guidance and make sure this decision fits with the Township's ideals. The various environmental experts who spoke during public comment made it clear that there are numerous potential environmental effects that must be considered. The campground works at the current scale, which is supported by the Master Plan, but it has not been shown that the proposed project continues to work and be supported by the Master Plan.

Kuhn reiterated that they are tasked with listening to public comment on the matter, and regardless of applicant statements, she was familiar with a majority of the people commenting and they are people who live locally, not people from out of state. There was ZBA consensus that they support the PC findings on this standard.

The ZBA asked if legal counsel needed additional input before drafting language for discussion at the December 20 meeting. Bzdok stated that this has been a good meeting and they will work to draft language, including variations, as requested in the discussion. The ZBA will be able to make changes to the language before approving it at the December 20 meeting. Once legal counsel drafts the language, it will be distributed to the PC, to the applicant, and posted on the township website.

Borton asked if the ZBA members had other aspects of the issue they would like to discuss before the meeting closes. Borton noted the weight of public comment, including a plethora of public comment from people who live in the community and have a vested interest in living here. It is important to observe that while not all public comment may have been explicitly acknowledged, the ZBA thanks the public for their comments and has reviewed all of it. This is local knowledge. Smith added that the legal opinion has been that the ZBA is empowered and obligated to consider public input on the topic.

Public Comment – Chris Grobbel – The wetlands are relic conifer swamp, much of which has been lost in Michigan due to farming and shoreline development. The state is very focused on preserving the portions of it that are left. Typically, when folks come with an application that discuss dark sky, there are studies that can be done and manufacturer specifications which can be discussed. With regard to due diligence, the Timber Shores development discussed earlier had an application that came with many of the necessary approvals, rather than them being conditional.

Donald Baty – He asked everyone to review the record and be fair to Northgate. He encourages everyone to read every piece of paper and listen to the meetings again. It is imperative in a process like this to be fair.

Susan Wheadon – She thanked the ZBA for reflecting the passion that she has for the community and the lake, and thanked them for their work.

ZBA Comment – Borton reiterated his call for the public to respect the process as it moves forward, and thanked the public for their attendance.

Adjournment - Kuhn moved to adjourn at 9:40 pm, Smith seconded. All in favor, motion carried.

Respectfully Submitted,

Dana Boomer
Recording Secretary

Recommended Procedures for ZBA Hearing on Leelanau Pines Appeal

The following is a set of procedures for the ZBA's hearing of the Northgate Leelanau Pines, LLC appeal of the Planning Commission's denial of site plan approval. Township legal drafted these recommended procedures in consultation with the Chair.

- Record before the ZBA:
 - The record before the ZBA has been organized and indexed and is stored in a Dropbox site. There are links to the record on the Township's website.
 - Under the zoning ordinance, no new evidence will be considered by the ZBA. The ZBA can and should consider written and oral comments and arguments about the information in the record.
- December 7, 2022 meeting:
 - Consideration of these procedures –
 - Township legal will provide an overview.
 - We ask the ZBA to review the procedures, modify them as necessary to meet your needs, and then approve them by motion.
 - Initial presentation by appellant –
 - The appellant will have uninterrupted time to present argument in support of the appeal.
 - Time limit: 20 minutes.
 - If the ZBA members have any questions they will ask them at the conclusion of the appellant's presentation to avoid subtracting from their time.
 - Public hearing –
 - Open to any member of the public who wishes to speak.
 - Time limit: 3 minutes.
 - Close public hearing.
 - Reply comments by appellant –
 - This is an opportunity for the appellant to respond to anything they wish from the public hearing.
 - Time limit: 10 minutes.
 - Board deliberation –
 - ZBA members will discuss their opinions regarding the appeal and particularly the 17 site plan review standards.
 - Focus is on whether the Planning Commission made a correct or incorrect decision regarding each standard.

- The objective of the discussion is to provide sufficient guidance to draft possible findings of fact and a decision reflecting the Board's discussion, for consideration at the December 20 meeting.
 - No additional comments from anyone should be allowed during deliberation but Board members may ask questions if they wish.
- Public comment at the end of the meeting should be limited to matters other than the Leelanau Pines appeal.
- Between meetings:
 - Legal will prepare proposed findings of fact and draft decision for the Board to consider at the next meeting.
 - Appellant may submit any final written comments or arguments addressing matters from the December 7 hearing by December 13, 2022.
- December 20, 2022 meeting:
 - Board will review and discuss proposed findings and draft decision, modify them as needed, and vote.
 - Public comment will be taken at the beginning of the meeting but not a second public hearing.